

(70) That the defendant was not entitled to the said way over the plaintiff's land, as the defendant has alleged.

(71) That the alleged trespass was not a use by the defendant of the said way.

(72) That the defendant was not within the age of twenty-one years, as alleged.

(73) That the alleged deed was not delivered as an escrow, as alleged.

(74) That the defendant was not, and is not now, the wife of one W. T., as alleged.

(75) That the defendant did not make the alleged deed by duress, as alleged.

(76) That the alleged deed was not procured by the fraud of the plaintiff.

(77) That the defendant did not commit the alleged assault in his own defense.

#### *New Assignment.*

(If the plaintiff replies and new assigns, the new assignment may be as follows):

(78) The plaintiff, as to the ——— and ——— pleas, says, that he sues not for the trespasses therein admitted, but for trespasses committed by the defendant in excess of the alleged rights, and also in other parts of the said land and on other occasions, and for other purposes than those referred to in the said pleas.

The plea of new assignment is used with especial propriety in cases of trespass, *q. c. f.*, where defendant pleads a right of way, and plaintiff desires to prove that acts complained of were in excess of such right. Plea held sufficient under this and two following sub-sections. *Haines v. Haines*, 104 Md. 213.

(79) And the plaintiff, as to the ——— and ——— pleas, further says, that he sues not only for the trespasses in these pleas admitted, but also for, etc.

(If the plaintiff replies and new assigns to some of the pleas, and new assigns only to the others, the form may be as follows):

See note to sub-sec. 78.

(80) And the plaintiff, as to the ——— and ——— pleas, further says, that he sues not for the trespasses in the ——— pleas (the pleas not replied to) admitted, but for the trespasses in the ——— pleas (the pleas replied to) admitted, and also for, etc.

See note to sub-sec. 78.

#### *Pleas in Abatement.*

(81) That the plaintiff, at the time of issuing the summons in this case was and still is the wife of one R. B.

Pleas in abatement cannot be amended—see sec. 47.

(82) That the plaintiff is within twenty-one years of age; and has declared by attorney, when he should have declared by next friend or guardian.